

From: [Boyd, Andrew](#)
To: [Eng, Sharon](#)
Subject: FW: FMC OU - Dust control and access issues
Date: Monday, March 30, 2015 10:21:34 AM

From: Jill Grant [mailto:jgrant@jillgrantlaw.com]
Sent: Monday, March 30, 2015 9:17 AM
To: Shirley, Joan; Boyd, Andrew
Cc: McLerran, Dennis; albright.richard@epa.gov; Stern, Allyn; allnut.david@epa.gov; Williams, Jonathan; cliffm@non-responsive; Werntz, James; FHBC; Landuse (Landuse@sbtribes.com); Arnold Appeney (aappeney@sbtribes.com); Kelly Wright (kwright@sbtribes.com); susanh@non-responsive Virginia Monsisco (vmonsisco@sbtribes.com); Penny Weymiller; Bill Bacon (bbacon@sbtribes.com); Gussie Lord
Subject: RE: FMC OU - Dust control and access issues

Andy, here are some photos I received from the Tribes over the weekend showing how bad the air quality conditions were.

From: Jill Grant
Sent: Monday, March 30, 2015 11:53 AM
To: 'Shirley, Joan'; Boyd, Andrew
Cc: McLerran, Dennis; albright.richard@epa.gov; Stern, Allyn; allnut.david@epa.gov; Williams, Jonathan; cliffm@non-responsive; Werntz, James; FHBC; Landuse (Landuse@sbtribes.com); Arnold Appeney (aappeney@sbtribes.com); Kelly Wright (kwright@sbtribes.com); susanh@non-responsive Virginia Monsisco (vmonsisco@sbtribes.com); Penny Weymiller; Bill Bacon (bbacon@sbtribes.com); Gussie Lord
Subject: RE: FMC OU - Dust control and access issues

Thanks Joan, I thought you were the Superfund attorney generally and that Andy just did RCRA, sorry for the mistake.

The dust issue may affect the Simplot site as well, because I understand that some of the dust may be coming from the gypstack. EPA may want to discuss that concern with the state DEQ, since they regulate the Simplot site together with EPA.

From: Shirley, Joan [mailto:Shirley.Joan@epa.gov]
Sent: Monday, March 30, 2015 11:49 AM
To: Jill Grant; Boyd, Andrew
Cc: McLerran, Dennis; albright.richard@epa.gov; Stern, Allyn; allnut.david@epa.gov; Williams, Jonathan; cliffm@non-responsive; Werntz, James; FHBC; Landuse (Landuse@sbtribes.com); Arnold Appeney (aappeney@sbtribes.com); Kelly Wright (kwright@sbtribes.com); susanh@ida.net; Virginia Monsisco (vmonsisco@sbtribes.com); Penny Weymiller; Bill Bacon (bbacon@sbtribes.com); Gussie Lord
Subject: RE: FMC OU - Dust control and access issues

Jill –

Thank you for bringing this matter to our attention.

I am forwarding your inquiry to **Andy Boyd**, who is the EPA attorney assigned to the **FMC** matters.

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**From:** Jill Grant [<mailto:jgrant@jillgrantlaw.com>]  
**Sent:** Monday, March 30, 2015 8:45 AM  
**To:** Shirley, Joan  
**Cc:** McLerran, Dennis; [albright.richard@epa.gov](mailto:albright.richard@epa.gov); Stern, Allyn; [allnut.david@epa.gov](mailto:allnut.david@epa.gov); Williams, Jonathan; [cliffm@non-responsive](mailto:cliffm@non-responsive); Werntz, James; FHBC; Landuse ([Landuse@sbtribes.com](mailto:Landuse@sbtribes.com)); Arnold Appeney ([aappeney@sbtribes.com](mailto:aappeney@sbtribes.com)); Kelly Wright ([kwright@sbtribes.com](mailto:kwright@sbtribes.com)); [susanh@non-responsive](mailto:susanh@non-responsive); Virginia Monsisco ([vmonsisco@sbtribes.com](mailto:vmonsisco@sbtribes.com)); Penny Weymiller; Bill Bacon ([bbacon@sbtribes.com](mailto:bbacon@sbtribes.com)); Gussie Lord  
**Subject:** FMC OU - Dust control and access issues  
**Importance:** High

Good morning Joan,

Over the past few days, two issues of significant concern have arisen regarding the FMC OU, and the Tribes urgently need EPA to address them.

First, dust from the site was kicked up by windy conditions and was seen spreading throughout the valley. The crushing of slag and spreading of slag across the site has contributed to the dust problem. As you know, the slag dust contains radioactivity, making the health threat all the more severe (the threat is not just from particulate matter, but from radioactive particulate matter), for everyone in the area.

The Dust Control and Air Monitoring Plan (DCAMP) contains a zero emission goal, which clearly is not being met. (See Section 2.1 of the October 2014 version of the DCAMP, which is the latest version I have.) The Tribes contacted Jonathan Williams, Cliff Merrill, and others at EPA and sent several photos of the conditions in the area, but to my knowledge have not yet received any response. (If you would like me to email you copies of the photos, please let me know.) EPA needs to enforce the requirements of the DCAMP immediately.

Second, the Tribes' access to the FMC OU has been severely limited, which in turn limits the oversight that the Tribes can provide of the activities proceeding at the site. Not only is FMC requiring Tribal representatives to sign an access form containing inappropriate statements

(e.g. stating the person is just a visitor, that the person's observations carry no weight, etc.), but also FMC has limited the times it will escort Tribal representative onto the site to just two hours in the morning and two hours in the afternoon. Since there is only one EPA contractor (Cliff Merrill) performing oversight, and he cannot be at the site full-time due to his other duties, that means there are many hours when FMC is proceeding without any oversight. Tribal representatives have identified issues with the work being performed, such as with the placement of air quality monitors, even during the limited access they have had, making this concern all the more serious.

Please let me know as soon as possible how EPA will address these concerns.

Jill

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